



KOPELMAN AND PAIGE, P.C.

The Leader in Public Sector Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

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May 11, 2016

Jonathan M. Silverstein
jsilverstein@k-plaw.com

Ms. Leslie Woodson Snell, AICP, LEED AP
Deputy Director of Planning
2 Fairgrounds Road
Nantucket, MA 02554

Re: Plans Submitted to the Planning Board for Consideration

Dear Ms. Snell:

You have requested an opinion regarding the Planning Board's practice of allowing sketch or concept plans in connection with certain types of applications that come before the Board. It is my understanding that the Board permits applicants to submit sketch plans in connection with certain special permit and site plan review applications, such as applications for secondary or tertiary dwellings and applications for more than one driveway. Specifically, you requested an opinion as to whether the Planning Board's established practice is appropriate or if all plans submitted to and considered by the Planning Board must be prepared by a licensed Professional Land Surveyor. In my opinion, the Planning Board's established practice is acceptable and does not run afoul of any applicable laws.

When the Planning Board serves as the Special Permit Granting Authority for a certain application, the Board also serves as the Site Plan Review Authority. See Zoning Bylaw, Section 139-23(B). As the Site Plan Review Authority, the Planning Board "may accept plans prepared by a professional land surveyor, registered architect, landscape architect, or designer, as appropriate." *Id.* Furthermore, the Planning Board may require that plans submitted to the Board include varying levels of detail based on the size and complexity of a particular project. *Id.* at B(1)(a) – (r). Nothing in the Zoning Act, G.L. c.40A, or the Town's Zoning Bylaw requires that all plans submitted in connection with special permit and site plan review applications be prepared by a licensed Professional Land Surveyor. Based on the foregoing, in my opinion, it is within the Planning Board's discretion to accept sketch plans when it determines such plans are sufficient to review a particular application.

Please note that I am not opining on whether the submission of a sketch plan or concept plan to the Planning Board constitutes the unlicensed practice of land surveying. In my opinion, the Planning Board is not the body responsible for enforcing the unlicensed practice of land surveying. The state Board of Registration of Professional Engineers and of Land Surveyors is responsible for such matters. The Planning Board need not concern itself with the unlicensed practice of land surveying or any other profession unless such unlicensed practice affects the Planning Board's ability to fulfill its statutory and regulatory duties. Here, it is my

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understanding that the Planning Board has determined that sketch or concept plans are sufficient for the purpose of reviewing certain applications, such as applications for secondary or tertiary dwellings and applications for more than one driveway. Therefore, in my opinion, the Planning Board's established practice of permitting sketch or concept plans is within its authority.

Please do not hesitate to contact me should you have any questions regarding this matter.

Very truly yours,



Jonathan M. Silverstein

JMS/BAG/eon
cc: Town Manager

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